

UNITED STATES DISTRICT COURT  
IN THE EASTERN DISTRICT OF MICHIGAN

ERICA STEARNS,  
Plaintiff,

-vs.-

**DEMAND FOR JURY TRIAL**

NCO FINANCIAL SYSTEMS, INC.,  
a Pennsylvania corporation,  
Defendant.

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**COMPLAINT & JURY DEMAND**

Plaintiff, Erica Stearns, through counsel, Nitzkin and Associates, by Gary Nitzkin states the following claims for relief:

**JURISDICTION**

1. This court has jurisdiction under the FDCPA, 15 U.S.C. §1692k(d) and 28 U.S.C. §§1331,1337.
2. This court may exercise supplemental jurisdiction over the related state law claims arising out of the same nucleus of operative facts which give rise to the Federal law claims.

**PARTIES**

3. The Defendant to this lawsuit is NCO Financial Systems, Inc. ("NCO") which is a Pennsylvania corporation doing business in Michigan.

## **VENUE**

4. The transactions and occurrences which give rise to this action occurred in Oakland County, MI.
5. Venue is proper in the Eastern District of Michigan.

## **GENERAL ALLEGATIONS**

6. Defendant, at all relevant times, has been attempting to collect on a consumer type debt on behalf of Consumers Energy, from the Plaintiff.
7. Defendant first started calling Plaintiff at the end of January 2011.
8. On or about March 1, 2011, Plaintiff asked Defendant to stop calling her, and yet, it had persisted to call her.
9. On March 14, 2011 at 10:24 a.m., Defendant called Plaintiff from 781-884-2847. She told them she is being represented by Nitzkin & Associates due to the harassing phone calls. She tried giving the representative our phone number and the representative would not take this information.
10. On March 14, 2011 at 5:55 p.m., Plaintiff received another call from Defendant from 781-884-2847.
11. On March 14, 2011 at 8:28 p.m., Plaintiff received another call from Defendant.
12. On March 15, 2011, at 8:34 a.m., Plaintiff received another phone call from Defendant. Plaintiff told them again that she is being represented by us and she should be removed from the list.
13. The Plaintiff has suffered damages as a result of these violations of the FDCPA.

### **COUNT I - FAIR DEBT COLLECTION PRACTICES ACT**

14. Plaintiff reincorporates the preceding allegations by reference.
15. At all relevant times Defendant, in the ordinary course of its business, regularly engaged in the practice of collecting debts on behalf of other individuals or entities.
16. Plaintiff is a "consumer" for purposes of the FDCPA and the account at issue in this case is a consumer debt.
17. Defendant is a "debt collector" under the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692a(6).
18. Defendant's foregoing acts in attempting to collect this alleged debt violated 15 U.S.C. §1692 et. seq;
19. The Plaintiff has suffered damages as a result of these violations of the FDCPA.

### **COUNT II - VIOLATION OF THE MICHIGAN OCCUPATIONAL CODE**

20. Plaintiff incorporates the preceding allegations by reference.
21. Defendant is a "collection agency" as that term is defined in the Michigan Occupational Code ("MOC"), M.C.L. § 339.901(b).
22. Plaintiff is a debtor as that term is defined in M.C.L. § 339.901(f).
23. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §339.915
24. Plaintiff has suffered damages as a result of these violations of the Michigan Occupational Code.

25. These violations of the Michigan Occupational Code were willful.

### **COUNT III - VIOLATION OF THE MICHIGAN COLLECTION PRACTICES ACT**

26. Plaintiff incorporates the preceding allegations by reference.

27. Defendant is a "Regulated Person" as that term is defined in the Michigan Collection Practices Act ("MCPA"), at MCL § 445.251.

28. Plaintiff is a "Consumer" as that term is defined at MCL § 445.251.

29. Defendant's foregoing acts in attempting to collect this alleged debt violated MCL §445.252

30. Plaintiff has suffered damages as a result of these violations of the MCPA.

31. These violations of the MCPA were willful.

### **DEMAND FOR JURY TRIAL**

Plaintiff demands trial by jury in this action.

### **DEMAND FOR JUDGMENT FOR RELIEF**

Accordingly, Plaintiff requests that the Court grant him the following relief against the defendant:

- a. Actual damages.
- b. Statutory damages.
- c. Treble damages.

d. Statutory costs and attorney fees.

Respectfully submitted.

March 18, 2011

/s/ Gary Nitzkin  
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